

Appl. No. 10/036,140
Amdt. dated June 23, 2005
Reply to Office action of April 7, 2005

REMARKS/ARGUMENTS

Applicants have received the Office action dated April 7, 2005, in which the Examiner: 1) rejected claims 1, 2, 5-7, 10-11, 13, 15-20, 22 and 23 under 35 U.S.C. § 102(e) as being anticipated by Baudot et al. (U.S. Pub. No. 2002/0107966); 2) rejected claims 3, 4, 8, 9, 12 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Baudot et al.; and 3) rejected claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Baudot in view of Butler et al. (U.S. Pub. No. 2003/0012183).

By the present amendment, the Applicants request amendments to the specification to correct misspelling of "heartbeat" in paragraphs 19 and 27 and the correction of the reference number "40" to --110-- in paragraphs 28, 29 and 30.

I. CLAIM REJECTIONS – 35 U.S.C. § 102

Claims 1, 2, 5-7, 10-11, 13, 15-20, 22 and 23 were rejected under 35 U.S.C. § 102(e) as being anticipated by Baudot et al. (U.S. Pub. No. 2002/0107966). The Applicants respectfully traverse these rejections.

With respect to Claim 1, the Examiner asserts that Baudot teaches all elements, including "*wherein the association is configured such that the first node and the second node appear to the opposite node as different addresses for the same node,*" referring to paragraphs 51 and 52 of Baudot "where the addresses are transferred."

The Applicants submit that paragraphs 51 and 52 teach that only one address is provided for both applications 150 and 250 in Baudot. Baudot teaches that in the event "application 150 dies, the IP address assigned to it is migrated to the standby host before standby application 250 becomes active." In Baudot the two applications 150 and 250, or more particularly, the two systems 100 and 200 appear as the same address, not as "*different addresses for the same node.*"

The fact that Baudot teaches use of a single address and the need to transfer the address in order to activate the standby systems is clear from at least paragraphs: 10, 14, 16, 51, 52, and claims 1, 7, and 13.

Paragraph 28 of Baudot illustrates a significant difference in the system taught by Baudot. While the standby device 200 may be physically connected to

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the network, it is not seen from the Internet Protocol network 300. This is because the standby device 200 does not have an IP address until and unless the address of device 100 is migrated to device 200.

In claim 1, each computer comprises a node and each node appears as a separate IP address. This difference is significant for several reasons.

In Baudot, the standby node 200 is normally inactive and not able to send and receive messages because it has no IP address. Only after node 100 dies and its IP address is migrated to node 200 does the standby node 200 become an active node. Node 200 in standby state is not a hot standby for the association.

The system covered by claim 1 includes two IP addresses, one for the first node and another for the second node. As a result, both nodes are able to send and receive data at all times. As described in the specification, and the SCTP protocol, the data structure stored at each end point controls which address is used to send messages. In that protocol, the first node would be the primary address to which messages should be sent. The second node is an automatic or hot backup that is ready at all times to receive messages in the event that any failure occurs that prevents successful transmission to the first node. The claim 1 system includes the synchronization process that insures that the second node has access to the current data structure of the first node, so that it can instantly maintain the association and receive messages as the backup system, without any need to migrate an address or any other information from the first node.

In view of this significant difference from Baudot and the advantages that flow from this difference, the Applicants submit that claim 1 is neither anticipated by or made obvious in view of Baudot, and is therefore allowable. Since claims 2-6 depend from claim 1, the Applicants submit that claims 2-6 are also allowable over the cited reference.

Each of the remaining independent claims 7, 10, 18 and 22 includes a limitation requiring that each instance of the transmission protocol have a separate IP address. The Applicants submit that claims 7, 10, 18 and 22 are allowable over the Baudot reference for the reasons set forth above with respect

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to claim 1. Since claims 8 and 9 depend from claim 7, claims 11-17 depend from claim 10, claims 19-21 depend from claim 18 and claim 23 depends from claims 22, the Applicants submit that claims 8, 9, 11-17, 19-21, and 23 are also allowable over the Baudot reference.

Allowance of claims 1-23 is respectfully requested.

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

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